

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:) Docket HWCA 20030181
)
CleanTech Environmental, Inc.)
7060 South Elmer Avenue)
Whittier, CA 90602)
)
) CONSENT ORDER
EPA ID # CAD008493322)
)
)
) Health and Safety Code
) Section 25187
)
Respondent)
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_____)
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The State Department of Toxic Substances Control
(Department) and CleanTech Environmental, Inc. (Respondent)
enter into this Consent Order and agree as follows:

1. Respondent transports hazardous waste.
2. The Department inspected Respondent on March 13
and 14, 2003.
3. The Department alleges the following violation:
 - 3.1. Respondent violated Health and Safety Code
section 25201, subdivision (a) in that between March 2002 and
March 2003 Respondent stored used motor oil longer than 10
days on 121 separate occasions without a permit or other grant
of authorization from the Department.

1 4. A dispute exists regarding the alleged
2 violation.

3 5. The parties wish to avoid the expense of
4 litigation and to ensure prompt compliance.

5 6. Jurisdiction exists pursuant to Health and
6 Safety Code (HSC) section 25187.

7 7. Respondent waives any right to a hearing in this
8 matter.

9 8. This Consent Order shall constitute full
10 settlement of the violation alleged above, but does not limit
11 the Department from taking appropriate enforcement action
12 concerning other violations.

13 9. Respondent admits the violation.

14 SCHEDULE FOR COMPLIANCE

15 10.0 Respondent shall comply with the
16 following.

17 10.1 Respondent has corrected the violation cited
18 above. Respondent shall operate hereafter in a manner that
19 shall prevent recurrences of the violation cited herein.

20 10.2. All submittal from Respondent pursuant to this
21 Consent Order shall be sent to:

22 Robert Kou, Unit Chief
23 Department of Toxics Substances Control
24 1011 North Grandview Avenue
25 Glendale, CA 91201

26 10.3. Communications: All approvals and decisions
27 of the Department made regarding such submittal and
28 notifications shall be communicated to Respondent in writing

1 by a Branch Chief, Department of Toxic Substances Control, or
2 his/her designee. No informal advice, guidance, suggestions,
3 or comments by the Department regarding reports, plans,
4 specifications, schedules, or any other writings by Respondent
5 shall be construed to relieve Respondent of its obligation to
6 obtain such formal approvals as may be required.

7 10.4. Department Review and Approval: If the
8 Department determines that any report, plan, schedule, or
9 other document submitted for approval pursuant to this Consent
10 Order fails to comply with the Order or fails to protect
11 public health or safety or the environment, the Department may
12 return the document to Respondent with recommended changes and
13 a date by which Respondent must submit to the Department a
14 revised document incorporating the recommended changes.

15 10.5. Compliance with Applicable Laws: Respondent
16 shall carry out this Order in compliance with all local,
17 State, and federal requirements, including but not limited to
18 requirement to obtain permits and to assure worker safety.

19 10.6. Endangerment during Implementation: In the
20 event that the Department determines that any circumstances or
21 activity (whether or not pursued in compliance with this
22 Consent Order) are creating an imminent or substantial
23 endangerment to the health or welfare of people on the site or
24 in the surrounding area or to the environment, the Department
25 may order Respondent to stop further implementation for such
26 period of time as needed to abate the endangerment. Any

1 deadline in this Consent Order directly affected by a Stop
2 Work Order under this section shall be extended for the term
3 of such Stop Work Order.

4 10.7. Liability: Nothing in this Consent Order
5 shall constitute or be construed as a satisfaction or release
6 from liability for any conditions or claims arising as a
7 result of past, current, or future operations of Respondent,
8 except as provided in this Consent Order. Notwithstanding
9 compliance with the terms of this Consent Order, Respondent
10 may be required to take further actions as are necessary to
11 protect public health or welfare or the environment.

12 10.8. Site Access: Access to the Site shall be
13 provided at all reasonable times to employees, contractors,
14 and consultants of the Department, and any agency having
15 jurisdiction. Nothing in this Consent Order is intended to
16 limit in any way the right of entry or inspection that any
17 agency may otherwise have by operation of any law. The
18 Department and its authorized representatives may enter and
19 move freely about all property at the Site at all reasonable
20 times for purposes including but not limited to: inspecting
21 records, operating logs, and contracts relating to the Site;
22 reviewing the progress of Respondent in carrying out the terms
23 of this Consent Order; and conducting such tests as the
24 Department may deem necessary. Respondent shall permit such
25 persons to inspect and copy all records, documents, and other
26 writings, including all sampling and monitoring data, in any

1 way pertaining to work undertaken pursuant to this Consent
2 Order.

3 10.9. Sampling, Data, and Document Availability:

4 Respondent shall permit the Department and its authorized
5 representatives to inspect and copy all sampling, testing,
6 monitoring, and other data generated by Respondent or on
7 Respondent's behalf in any way pertaining to work undertaken
8 pursuant to this Consent Order. Respondent shall allow the
9 Department and its authorized representatives to take
10 duplicates of any samples collected by Respondent pursuant to
11 this Consent Order. Respondent shall maintain a central
12 depository of the data, reports, and other documents prepared
13 pursuant to this Consent Order. All such data, reports, and
14 other documents shall be preserved by Respondent for a minimum
15 of six years after the conclusion of all activities under this
16 Consent Order. If the Department requests that some or all of
17 these documents be preserved for a longer period of time,
18 Respondent shall either comply with that request, deliver the
19 documents to the Department, or permit the Department to copy
20 the documents prior to destruction. Respondent shall notify
21 the Department in writing at least six months prior to
22 destroying any documents prepared pursuant to this Consent
23 Order.

24 10.10. Government Liabilities: The State of
25 California shall not be liable for injuries or damages to
26 persons or property resulting from acts or omissions by
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Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. Respondent shall pay the Department a total sum of \$10,000.00 in penalties. The payments shall be paid in three (3) installments as follows: the first two installments for \$3,000, each; and the third installment for \$4,000. Payment installmemnts are due and payable on November 1, 2003,

1 and February 1, 2004 and May 1, 2004, respectively. Any
2 installment payment which is received by the Department after
3 the 15th day of the month in which it is due is subject to a
4 penalty in the amount of \$750.00, which penalty shall be paid
5 by Respondent no later than the due date of the next
6 installment payment. If Respondent is late in making two (2)
7 payments, then the Department, at its option, may declare the
8 entire balance of the outstanding payments immediately due and
9 owing. If Respondent fails to make payments as provided above,
10 Respondent agrees to pay interest at the rate established
11 pursuant to Health and Safety Code section 25360.1 and to pay
12 all costs incurred by the Department in pursuing collection,
13 including attorney's fees.

14 Respondent hereby agrees to send Robert Brown III to the
15 California Compliance School, Modules I-IV. Respondent shall
16 submit to the Department, within 185 days of the effective
17 date of this Order, a Certificate of Satisfactory Completion
18 issued by the California Compliance School that Robert Brown
19 III satisfactorily completed California Compliance School,
20 Modules I-IV. If Respondent fails to submit the required
21 certificate to the Department within 185 days of the effective
22 date of this Order, then Respondent agrees to pay the
23 Department a penalty of \$5,000 which shall be paid within 215
24 days of the effective date of this Order.

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26 Respondent's checks shall be made payable to Department
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of Toxic Substances Control, and shall be delivered to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the checks shall be sent to:

Robert Kou, Unit Chief
Department of Toxics Substances Control
1011 North Grandview Avenue
Glendale, CA 91201

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and their officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor

1 agency that may have responsibility for and jurisdiction over
2 the subject matter of this Consent Order.

3 12.4. Effective Date: The effective date of this
4 Consent Order is the date it is signed by the Department.

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13 Dated: 08/08/2003

ORIGINAL SIGNED BY RESPONDENT
Signature of Respondent's
Representative

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16 Dated: 08/08/2003

ORIGINAL SIGNED BY ROBERT BROWN III
Typed or Printed Name and
Title of Respondent's
Representative

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20 Dated: 09/02/2003

ORIGINAL SIGNED BY ROBERTO KOU
Robert Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances
Control